

CONFIDENTIALApril 26th, 1960COCOM Document No. 3975COORDINATING COMMITTEEMEMORANDUM BY THE NETHERLANDS DELEGATIONONTHE APPLICATION OF IC/DV-SYSTEM FOR THE PURCHASE OF
UNITED STATES SURPLUS GOODS LOCATED IN DUMPS IN WESTERN EUROPEAN COUNTRIES

The Netherlands Delegation wishes to draw the Committee's attention the problem arisen in connection with the implementation of IC/DV-system as to the purchases of surplus goods.

In April 1958 the United States military authorities had adopted special regulations for the disposal of military surplus property for all sales contracts.

Article (CC) of said regulations stipulate with regard to the contract terms the following paragraphs:

"Article (CC) Requirement for Import Certificate and Verification of Delivery. Whenever requested by the Property Disposal (Contracting) Officer, the purchases shall:

1. Prior to release of the property, submit to the Property Disposal (Contracting) Officer, an Import Certificate or similar document issued by the government(s) of the country(ies) into which the property, or any substantial part thereof, is to be imported; and

2. Within 30 days after delivery of the property submit to the Property Disposal (Contracting) Officer a Delivery Verification or similar document, issued by the government(s) which issued the Import Certificate or similar document, showing that the property has been imported therein. An extension of time within which to submit a Delivery Verification or similar document may be granted in writing by the Property Disposal (Contracting) Officer upon the written request of the purchaser and for good cause shown. Failure to submit such Delivery Verification or comparable document may be cause for denial to the purchaser of future contracts with the United States.

Before acceptance of the bid of the apparently successful bidder, the Disposal Officer will determine from lists in his possession whether the property to be sold is included among the items defined as arms, ammunition and implements of war (United States Munitions List) the International Atomic Energy List, or the United States Positive List.

With respect to any property appearing on the United States Munitions List or International Atomic Energy List, or specially designated by the letter "A" in the right-hand column of the Positive List, whether or not of United States origin, the Disposal Officer will require the apparently successful bidder to comply with the provisions of Article (CC), Requirement for Import Certificate and Verification of

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Delivery, as above, whenever the apparently successful bidder's statement regarding disposition and use of property indicates that the property appearing on such List is to be used in or shipped (i) to any of the following countries which issue Import Certificates: Austria, Belgian Congo, Belgium, Canada, Denmark, France, Federal Republic of Germany, Western Sectors of Berlin, Greece, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Turkey, United Kingdom, and the United States; (ii) to Switzerland which issues Swiss Blue Import Certificates; (iii) to Yugoslavia which issues Yugoslav End-Use Certificates (similar to Import Certificates); or (iv) to Hong Kong which issues endorsed Hong Kong Import Licenses (similar to Import Certificates.)".

For the application of this procedure the Netherlands authorities issue IC's with a special code, viz. G.S., numbered in a special series, copies of which are directly sent to the United States Army Property Disposal Detachment, 52 Elbestrasse, Frankfurt/M.

The original IC's are submitted by the purchasers to the United States Property Disposal (Contracting) Officer of the dump in question.

The above procedure runs satisfactorily and local authorities in Western Germany, France, Belgium and other countries take the standpoint not to interfere with this procedure and therefore they do not require Netherlands IC's and apparently leave the responsibility as to the destination of the goods to the United States authorities.

However during the last months Netherlands surplus dealers are encountering difficulties regarding their purchases from United States dumps in the United Kingdom owing to the fact that the United Kingdom Board of Trade requires Netherlands IC's with United Kingdom code, issued with the name of the British forwarding agents, who are not financially involved in the transactions but only give their usual intermediary for the transport and shipment of the goods.

As we learned the opinion of the Board of Trade is as follows:

"Our position in dealing with export licence applications is of course that we must be satisfied before issuing a licence that the export is in accordance with United Kingdom policy, and in connection with exports of surplus military equipment there are usually destination problems to take into account in addition to the ordinary COCOM obligations. For these reasons we feel that we must have adequate documentation for our cases and normally this includes an import certificate where a COCOM country is involved. Our obligations are quite unaffected by the fact that the goods have been sold by the American authorities. the responsibility for the export is clearly ours, and this being so we do not think we should forego the safeguard of the production to us of a certificate issued in the United Kingdom series, a copy of which would have been sent to use through official channels. A declaration that a certificate has been issued seems to us to be an inadequate substitute.

The import certificate scheme was set up to provide a safeguard to the exporting authorities of a country and its use for another purpose, i.e. as a safeguard to a seller seems to be unusual.

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All the certificates bear a note to the effect that they become void if not ~~handed~~ to the proper authorities of the exporting country within a stated period. The proper authorities in this context would surely be the export control authorities who, in fact, under these changed arrangements do not see the certificate."

This opinion does not conform to the United States arrangements and consequently Netherlands prospective purchasers of United States military surplus equipment are unable to comply with either the stipulations contained in Article (CC) of the United States contract terms or with the Board of Trade requirements.

For practical reasons the Netherlands Delegation prefers a compromise solution to a probably long lasting discussion on the principle question, whether Article (CC) could possibly overrule the COCOM procedure and therefore the delegation suggests the following:

1. The Netherlands authorities might send directly to the Board of Trade extra copies of all IC's, which documents were issued on behalf of the Disposal Officer and might number these copies with a secondary United Kingdom code.
2. The Netherlands authorities might confirm in writing to the Board of Trade the granting of IC's with G.S. code for goods located in the United Kingdom.

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